

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT,

Plaintiff,

V.

WILL BAILEY,

Defendant.

Case No. C06-5173RBL

REPORT AND RECOMMENDATION

NOTED FOR December 29th, 2006

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4.

FACTS AND DISCUSSION

Mr. Scott litigates under close judicial scrutiny as a result of past abusive practices. Some of the constraints placed on Mr. Scott are contained in the case management order entered in this action as (Dkt. # 14).

In the case before the court today the original complaint was deficient as it contained no statement of the court's jurisdiction and no request for relief (Dkt. # 13). Plaintiff was ordered to file an amended complaint that cured these defects but to name no new parties (Dkt. # 44). To the

1 contrary, on October 17th, 2006 plaintiff filed an amended complaint naming three new defendants
2 (Dkt. # 53). Plaintiff was originally given until October 8, 2006 to file an amended complaint (Dkt. #
3 44). That deadline was extended until December 1st, 2006 (Dkt. # 59). The case was stayed and
4 plaintiff instructed that if a proper amended complaint was not filed the court would recommend this
5 action be dismissed (Dkt. # 59). Plaintiff has not complied with the court's orders.

6 Plaintiff has instead appealed the courts' refusal to accept a non conforming amended
7 complaint (Dkt. # 58). That appeal has been denied and the deadline for filing a proper amended
8 complaint has passed. The court now recommends that this action be **DISMISSED WITH**
9 **PREJUDICE** for failure to prosecute, and failure to comply with court orders. A proposed order
10 accompanies this Report and Recommendation.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
12 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R.
13 Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal.
14 Thomas v Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is
15 directed to set the matter for consideration on **December 29, 2006**, as noted in the caption.

16 DATED this 5th day of December 2006.
17

18
19 /S/ J. Kelley Arnold
20 J. Kelley Arnold
United States Magistrate Judge
21
22
23
24
25
26
27
28